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ENGROSSED SUBSTITUTE SENATE BILL 5275

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State of Washington

59th Legislature

2005 Regular Session

**By** Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Benton, Regala, Kline, Franklin and Mulliken)

READ FIRST TIME 02/03/05.

1 AN ACT Relating to prohibiting the use of consumer credit histories  
2 for personal insurance renewal decisions; amending RCW 48.18.545; and  
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.18.545 and 2002 c 360 s 1 are each amended to read  
6 as follows:

7 (1) For the purposes of this section:

8 (a) "Adverse action" has the same meaning as defined in the fair  
9 credit reporting act, 15 U.S.C. Sec. 1681 et seq. Adverse actions  
10 include, but are not limited to:

11 (i) Cancellation, denial, or nonrenewal of personal insurance  
12 coverage;

13 (ii) Charging a higher insurance premium for personal insurance  
14 than would have been offered if the credit history or insurance score  
15 had been more favorable, whether the charge is by:

16 (A) Application of a rating rule;

17 (B) Assignment to a rating tier that does not have the lowest  
18 available rates; or

1 (C) Placement with an affiliate company that does not offer the  
2 lowest rates available to the consumer within the affiliate group of  
3 insurance companies; or

4 (iii) Any reduction, adverse, or unfavorable change in the terms of  
5 coverage or amount of any personal insurance due to a consumer's credit  
6 history or insurance score. A reduction, adverse, or unfavorable  
7 change in the terms of coverage occurs when:

8 (A) Coverage provided to the consumer is not as broad in scope as  
9 coverage requested by the consumer but available to other insureds of  
10 the insurer or any affiliate; or

11 (B) The consumer is not eligible for benefits such as dividends  
12 that are available through affiliate insurers.

13 (b) "Affiliate" has the same meaning as defined in RCW  
14 48.31B.005(1).

15 (c) "Consumer" means an individual policyholder or applicant for  
16 insurance.

17 (d) "Consumer report" has the same meaning as defined in the fair  
18 credit reporting act, 15 U.S.C. Sec. 1681 et seq.

19 (e) "Credit history" means any written, oral, or other  
20 communication of any information by a consumer reporting agency bearing  
21 on a consumer's creditworthiness, credit standing, or credit capacity  
22 that is used or expected to be used, or collected in whole or in part,  
23 for the purpose of serving as a factor in determining personal  
24 insurance premiums or eligibility for coverage.

25 (f) "Insurance score" means a number or rating that is derived from  
26 an algorithm, computer application, model, or other process that is  
27 based in whole or in part on credit history.

28 (g) "Personal insurance" means:

29 (i) Private passenger automobile coverage;

30 (ii) Homeowner's coverage, including mobile homeowners,  
31 manufactured homeowners, condominium owners, and renter's coverage;

32 (iii) Dwelling property coverage;

33 (iv) Earthquake coverage for a residence or personal property;

34 (v) Personal liability and theft coverage;

35 (vi) Personal inland marine coverage; and

36 (vii) Mechanical breakdown coverage for personal auto or home  
37 appliances.

1 (h) "Prior credit history" means the credit history obtained by the  
2 insurer and used at the issuance or prior renewal of the policy.

3 (i) "Tier" means a category within a single insurer into which  
4 insureds with substantially like insuring, risk or exposure factors,  
5 and expense elements are placed for purposes of determining rate or  
6 premium.

7 (j) "Updated credit history" means the most recent version of any  
8 credit history obtained by an insurer since issuance or prior renewal  
9 of the policy.

10 (2) An insurer that takes adverse action against a consumer based  
11 in whole or in part on credit history or insurance score shall provide  
12 written notice to the applicant or named insured. The notice must  
13 state the significant factors of the credit history or insurance score  
14 that resulted in the adverse action. The insurer shall also inform the  
15 consumer that the consumer is entitled to a free copy of their consumer  
16 report under the fair credit reporting act.

17 (3) An insurer shall not cancel or nonrenew personal insurance  
18 based in whole or in part on a consumer's credit history or insurance  
19 score. An offer of placement with an affiliate insurer does not  
20 constitute cancellation or nonrenewal under this section. At renewal,  
21 an insurer shall not use a policyholder's updated credit history to  
22 determine premium when the updated credit history is less favorable to  
23 the policyholder than the prior credit history. Nothing in this  
24 section shall be construed to prevent an insurer from using factors  
25 other than a policyholder's updated credit score in determining premium  
26 increases, or to prevent inclusion of a policyholder's prior credit  
27 history in premium decisions at renewal.

28 (4) An insurer may use credit history to deny personal insurance  
29 only in combination with other substantive underwriting factors. For  
30 the purposes of this subsection:

31 (a) "Deny" means an insurer refuses to offer insurance coverage to  
32 a consumer;

33 (b) An offer of placement with an affiliate insurer does not  
34 constitute denial of coverage; and

35 (c) An insurer may reject an application when coverage is not bound  
36 or cancel an insurance contract within the first sixty days after the  
37 effective date of the contract.

38 (5) Insurers shall not deny personal insurance coverage based on:

1 (a) The absence of credit history or the inability to determine the  
2 consumer's credit history, if the insurer has received accurate and  
3 complete information from the consumer;

4 (b) The number of credit inquiries;

5 (c) Credit history or an insurance score based on collection  
6 accounts identified with a medical industry code;

7 (d) The initial purchase or finance of a vehicle or house that adds  
8 a new loan to the consumer's existing credit history, if evident from  
9 the consumer report; however, an insurer may consider the bill payment  
10 history of any loan, the total number of loans, or both;

11 (e) The consumer's use of a particular type of credit card, charge  
12 card, or debit card; or

13 (f) The consumer's total available line of credit; however, an  
14 insurer may consider the total amount of outstanding debt in relation  
15 to the total available line of credit.

16 (6)(a) If disputed credit history is used to determine eligibility  
17 for coverage and a consumer is placed with an affiliate that charges  
18 higher premiums or offers less favorable policy terms:

19 (i) The insurer shall reissue or rerate the policy retroactive to  
20 the effective date of the current policy term; and

21 (ii) The policy, as reissued or rerated, shall provide premiums and  
22 policy terms the consumer would have been eligible for if accurate  
23 credit history had been used to determine eligibility.

24 (b) This subsection only applies if the consumer resolves the  
25 dispute under the process set forth in the fair credit reporting act  
26 and notifies the insurer in writing that the dispute has been resolved.

27 (7) The commissioner may adopt rules to implement this section.

28 (8) This section applies to all personal insurance policies issued  
29 or renewed after January 1, 2003.

30 NEW SECTION. **Sec. 2.** This act takes effect December 31, 2005.

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